Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Rural Digital Opportunity Fund	)	WC Docket No. 19-126
	)	
Connect America Fund	)	WC Docket No. 10-90

COMMENTS OF ALASKA COMMUNICATIONS

Alaska Communications[1] offers the following comments on the Commission's recent Notice of Proposed Rulemaking (the "Notice") in the above-captioned dockets concerning the proposed Rural Digital Opportunity Fund ("RDOF").[2] In the Notice, the Commission proposes to use the RDOF as a successor to Connect America Fund ("CAF") Phase II model-based support to continue expanding the availability of affordable voice and broadband services in census blocks served by price cap ILECs that are currently unserved or underserved by broadband.

Although the Commission proposes to exclude Alaska (and other non-contiguous areas of the nation served by price cap carriers that elected to receive CAF Phase II frozen support) from the RDOF,[3] Alaska Communications highlights specific issues associated with the end of the CAF Phase II support for price cap carriers because these issues are likely to recur when CAF Phase II Frozen Support expires in Alaska. In particular, following the end of CAF Phase II, the Commission should either relieve the price cap ILEC of its service obligations in all high-cost census blocks where it no longer receives support, or provide sufficient support for ongoing operational and other costs necessary to ensure continuity of voice and broadband services. Such support is particularly important in Alaska, where Alaska Communications faces unavoidable purchases of costly middle mile transport services necessary to support delivery of broadband.

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1 In these comments, "Alaska Communications" signifies the incumbent local exchange carrier ("ILEC") affiliates of Alaska Communications Systems Group, Inc. that receive support from the Commission's Connect America Fund ("CAF") Phase II explicit universal service support mechanism, namely ACS of Alaska, LLC, ACS of Anchorage, LLC, ACS of Fairbanks, LLC, and ACS of the Northland, LLC.

2 *Rural Digital Opportunity Fund*, WC Docket No. 19-126, Notice of Proposed Rulemaking, FCC 19-77 (rel. Aug. 2, 2019).

3 *Id.* n.30.

Background

After participating extensively in the Commission's processes for adopting and implementing CAF, Alaska Communications accepted CAF Phase II Frozen Support and the Commission subsequently imposed conditions on that support including, *inter alia*, that it offer affordable voice and broadband services to at least 31,571 customer locations primarily in census blocks that were unserved by an unsubsidized competitor, completing deployment by the end of 2025.[4] These conditions took effect as of January 1, 2016, one year later than the corresponding offers of CAF Phase II support based on the Connect America Cost Model ("CAM'"). Deployment enabled by CAF Phase II has dramatically expanded broadband availability in Alaska and across the nation, and it will continue to do so, but it will not be sufficient to make broadband access available in all rural areas of the Nation, as the Notice acknowledges.[5]

Discussion

Alaska Communications agrees with the Commission that expanding availability of affordable broadband in order to close the digital divide is a "top priority."[6] But, having authorized billions of dollars in CAF funding to support that expansion, the Commission should ensure that the transition to the RDOF does not undermine this progress or cause any loss or reduction of broadband service in rural America.

A. Alaska Communications Concurs with the Commission's Proposal to Exclude Alaska from the RDOF Auction

Alaska Communications supports the proposal in the Notice to exclude from the RDOF "census blocks that are served by price cap carriers that serve noncontiguous areas and elected to receive frozen support in lieu of CAF Phase II model-based support," namely Alaska, Puerto

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4 *Connect America Fund*, WC Docket No 10-90, Order, FCC 16-143, 31 FCC Rcd 12086 (2016) ("*Alaska Communications CAF Phase II Order*").
5 Notice ¶ 3.
6 *Id.* at ¶ 1 (broadband is "critical to economic opportunity, job creation, education, and civic engagement").

Rico, and the U.S. Virgin Islands.[7] *First*, the Commission's proposal to hold the Phase I of the RDOF auction in 2020[8] does not align well with the term of CAF Phase II frozen support in Alaska, which runs through Dec. 31, 2025.[9] Having identified only a few months ago a sufficient number of qualifying locations meeting the conditions of CAF Phase II, Alaska Communications faces the daunting challenge of implementing its deployment plans. It would be contrary to the terms established in 2016 for the Commission to cut that process prematurely short by including census blocks served by Alaska Communications in the RDOF auction.

Second, Alaska Communications believes that it would disserve the goal of expanding broadband access in Alaska for the Commission to require the state's rural, remote, and extremely high-cost census blocks to compete for broadband deployment support against census blocks in the lower 48 states. With scores of small, remote, unserved or underserved communities dotting the Alaska Bush, the greatest obstacle to broadband deployment in Alaska is a lack of sufficient and affordable middle mile capacity.[10] Any auction bidder would need to factor into its projected costs of service the extremely high expense of purchasing middle mile capacity from a third party, likely driving the bid well above the Commission's contemplated reserve prices.[11] In any event, in light of the very high costs of service in the state, it seems likely that few Alaska census blocks would be won in such a nationwide auction.

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[7] Notice n.30.

[8] Notice at ¶ 3.

[9] *Alaska Communications CAF Phase II Order* at ¶ 24.

[10] *See, e.g., Promoting Telehealth in Rural America*, WC Docket No. 17-310, Report and Order, FCC 19-78 (rel. Aug. 20, 2019), at ¶ 36, n.99 (observing that GCI is the only provider of middle-mile transport in parts of Alaska and that, "[w]ithout the discipline of any competition . . . , a carrier would have the perverse incentive to inflate middle-mile rates").

[11] The Commission proposes to use the CAM to set reserve prices for eligible census blocks, Notice at ¶ 54. Because the CAM was never adopted for Alaska, it could not presently be used for that purpose in any event.

B. Ongoing Support Will Be Necessary to Sustain Affordable Broadband in Census Blocks Formerly Supported under CAF Phase II

Alaska Communications agrees that the Commission, as recognized in the Notice,[12] should address transition issues surrounding the end of the CAF Phase II term of support. CAF Phase II enabled price cap ILECs to offer broadband services to millions of locations that are otherwise uneconomic to serve. In the Notice, the Commission bluntly suggests that, "[b]ecause price cap carriers accepted CAF Phase II model-based support without an expectation of sustained ongoing support, we do not believe it is necessary to provide any transitional support to price cap carriers beyond the optional seventh year of support."[13] This conclusion widely misses the mark.

CAF Phase II support is intended to enable carriers to offer broadband services meeting certain minimum standards in areas where anticipated customer revenues would not otherwise justify the cost of deploying the necessary facilities. But, the Commission has never squarely addressed the sustainability of that service, much less the need to upgrade it to meet higher performance standards (*e.g.*, increasing bandwidth from 10/1 Mbps to 25/3 Mpbs) following the end of CAF Phase II support. It is axiomatic that, in many locations, the price cap ILEC will be unable to continue to offer existing broadband service, let alone upgrade it, on an unsupported basis following the end of the CAF Phase II term. This will be especially true for Alaska Communications following its ten-year build-out term, as it will continue to face unavoidable exhorbitant annual expenses of purchasing middle-mile transport services from third parties, which would make the retail broadband service unaffordable to customers.[14]

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[12] Notice at ¶ 104 (seeking comment on "whether there are any other issues that we should address in the context of this proceeding that will facilitate the transition from CAF Phase II model-based support to Rural Digital Opportunity Fund support and will ensure that consumers retain access to voice and broadband services that are reasonably comparable to those offered in urban areas").

[13] Notice at ¶ 102.

[14] *See, e.g.,* GCI, "TERRA Product Descriptions and Pricing," eff. May 17, 2019 (showing rates exceeding $8,000 per Mbps), *available at:* https://www.gci.com/-/media/files/gci/regulatory/20190517gciterrapostingeffective.pdf.

This risk that broadband service will prove unsustainable on an unsupported basis is particularly great in at least three types of census blocks: (a) CAF Phase II-eligible census blocks that are ineligible for RDOF, for example because they already meet the Baseline speed threshold;[15] (b) census blocks won in the RDOF auction by a provider other than the CAF Phase II recipient; or (c) census blocks funded by CAF Phase II that lose support under the constraints of the RDOF budget or the Commission's reserve price limits. Broadband offered with CAF Phase II support may become unsustainable or unaffordable in these areas as that program terminates.

First, the Commission targeted CAF Phase II support to unserved areas of the nation where the CAM demonstrated the costs of voice and broadband service to be "high."[16] There is no evidence that, in the past few years, it has become economically viable for service providers supported by CAF Phase II to sustain broadband service on an unsupported basis in these high-cost census blocks. Rather, the Commission remains bound by its obligations under Section 254(b) of the Communications Act to ensure that advanced telecommunications and information services are available in all areas of the nation, and that, in rural, insular, and high cost areas, those services (and the rates charged) are reasonably comparable to those available in urban areas.[17]

Second, the CAM identified high-cost areas by modeling the annual costs of service, taking into account both capital investment and operating expenditures.[18] Support levels under

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[15] Notice at ¶ 49.

[16] *Connect America Fund*, WC Docket No. 10-90, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 26 FCC Rcd 17663 (2011) ("*Transformation Order*"), at ¶ 156 (CAF Phase II support is based on "a commitment to serve all locations in its service territory in a state that, based on the model, fall within the high-cost range and are not served by a competing, unsubsidized provider").

[17] 47 U.S.C. § 254(b)(2) ("Access to advanced telecommunications and information services should be provided in all regions of the Nation."); § 254(b)(3) ("Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.").

[18] *See, e.g., Connect America Fund*, WC Docket No. 10-90, Report and Order, DA 14-534, 29 FCC Rcd 3964 (Wir. Comp. Bur. 2014) ("*CAM Inputs Order*"), at ¶ 110-123 (setting OpEx input values).

CAF Phase II were set based on the resulting estimates of "forward-looking cost . . . of serving locations, including community anchor locations, in price cap territories."[19] Neither the *Transformation Order*, nor the CAM, nor the CAF Phase II support model were designed to identify areas where broadband service would become self-sustaining after the initial capital investment in the necessary facilities had been completed under CAF Phase II.

In Alaska, operating and maintenance expenses are particularly high. Alaska Communications serves approximately 50 Bush communities that are inaccessible by road. Many of these communities are not connected to the state's power grid, meaning that fuel for backup, or even primary, power often must be maintained on site. Generally, Alaska Communications does not employ any local network maintenance or repair personnel in these communities. Rather, when needed, crews from Anchorage or elsewhere in the state, as well as their tools, equipment, parts, fuel, and all other necessary supplies, must travel to the site by air, boat, barge, snow machine, all-terrain vehicle, or other off-road conveyance. These trips are often lengthy and subject to unpredictable delays based on Alaska's frequent adverse weather conditions. Taken together, maintenance and repair tasks that can be accomplished in hours elsewhere in the nation often stretch into multiple days or even weeks in Alaska, driving up costs still further.

Third, CAF Phase II support was never designed to fully support extraordinary capital investment costs in high-cost areas. In fact, the opposite is true. The CAM incorporates annual charge factors based on useful life schedules that were intended to reflect the actual economic lives of the facilities to be deployed, in some cases 20 years or more. As explained by the Wireline Competition Bureau, "the model platform will calculate costs assuming that the supported network will retain significant value at the end of the five-year term of Phase II

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[19] *Transformation Order* at ¶ 102.

support."[20] Thus, former CAF Phase II recipients will need to continue to recover annual depreciation and cost-of-money expenses for many years after their CAF Phase II support ends. Abruptly terminating support would create large stranded investments, the costs of which price cap ILECs would have no opportunity to recoup.

In census blocks where the price cap ILEC is the successful bidder for RDOF support, the RDOF itself will provide the necessary successor mechanism to CAF Phase II. In submitting the winning bid, the price cap ILEC will have accepted voluntarily the obligation to continue to invest in faster broadband meeting the requirements of the corresponding RDOF service tier.

Elsewhere, economic realities are likely to prevent CAF Phase II recipients from maintaining all of their current broadband service offerings. Particularly in Alaska, operation and maintenance expenses can be substantial, owing to the harsh climate, lack of infrastructure, and remote location of supported census blocks. The small communities served by Alaska Communications offer limited subscriber revenue, and few subscribers over which to spread the full, unsupported cost of service. As a result, price increases necessary to make the service economically viable for the company would likely render the service unaffordable for most consumers. The mere fact that broadband facilities have been deployed provides no assurance that subscriber revenue alone will be sufficient to sustain the service.

C. If the Price Cap ILEC Is Not the Winning RDOF Bidder, the Commission Should Confirm Immediate Relief from Regulatory Service Obligations or Provide Continuing Support Necessary to Preserve Access to Broadband

Alaska Communications believes that the Commission must more fully confront the wider regulatory implications of its impending new paradigm reflected in the RDOF. Before enactment of the Telecommunications Act of 1996 (the "1996 Act"), only the ILEC received high-cost

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[20] *Connect America Fund*, WC Docket No. 10-90, Report and Order, DA 13-807, 28 FCC Rcd 5301 (Wir. Comp. Bur. 20143 ("*CAM Platform Order*"), at ¶ 15.

universal service support, which was largely implicit in regulated rate structures.[21] In the wake of the 1996 Act, the Commission took steps to make this support explicit and portable, available to all competitors on a competitively neutral basis. In creating CAF Phase II, the Commission acknowledged that supporting multiple competitors in high-cost markets that cannot sustain even one unsubsidized provider is economically inefficient.[22] Thus, the Commission made a "right-of-first-refusal" offer of support to each price cap ILECs, most of which were accepted.

The RDOF merges significant aspects of both the pre-1996 and post-1996 frameworks to accommodate the maturity of competition in today's communications markets. As technologies and platforms for delivering broadband services to consumers proliferate, the Commission no longer must rely on the ILEC to provide universal service. Indeed, both the CAF Phase II Auction and the RDOF proposal rest on the Commission's judgment that it no longer serves the public interest to do so.[23] Rather, the design of those mechanisms reflects the Commission's determination that multiple providers are capable of delivering universal service, and that an auction best captures the efficiencies inherent in the cost differences among their various platforms.

Now the Commission should take the logical next step, as articulated in the service transition and funding approach offered in USTelecom's comments in this proceeding, filed today.[24] When the ILEC ceases to receive support for its services in high-cost areas, it should also immediately be relieved of its eligible telecommunications carrier ("ETC") and other obligations under Section 214 of the Communications Act.[25] In the case of high-cost census

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[21] *See, e.g., Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 97-157, 12 FCC Rcd 8776 (1997) ("*Universal Service Order*"), at ¶ 9, (subsequent history omitted).

[22] *Transformation Order* at ¶¶ 502-504.

[23] Notice at ¶ 91; *Connect America Fund*, WC Docket No. 10-90, Report and Order and Further Notice of Proposed Rulemaking, FCC 16-64, 31 FCC Rcd 5949 (2016), at ¶ 100.

[24] Comments of USTelecom, WC Docket No. 19-126, at 24-33 (filed Sept. 20, 2019).

[25] 47 U.S.C. § 214; Notice at ¶¶ 96-97.

blocks that have been excluded from the RDOF auction, with no prospect of a successor support mechanism, terminating support without any analysis of the viability of service is insufficient.

Where a new provider wins RDOF support, it would need to be designated as an ETC,[26] which in turn requires it to "offer the services that are supported by Federal universal service support mechanisms" throughout the designated area.[27] While the Commission has previously granted forbearance from price cap ILECs' high-cost ETC obligations in such circumstances,[28] with a successor ETC in place, the Commission should not restrict the price cap ILEC's prerogative to discontinue uneconomic broadband or voice service in the census blocks won by the newly-designated ETC. In this respect, the Commission should follow the model of the 1978 Airline Deregulation Act,[29] which provided gave air carriers broad discretion to determine which domestic markets to serve and to set fares. After a period of instability, today's deregulated airline industry is in relatively good economic health, passenger volumes have risen sharply, and air fares have fallen dramatically.[30] While airlines did reduce or eliminate some economically unsustainable routes, the Department of Transportation offers targeted explicit support mechanisms for service to some small markets.[31]

To avert the risk that customers receiving voice or broadband service today may lose it following the end of CAF Phase II, the Commission should adopt a similar model, eliminating service obligations and providing additional targeted transition support where necessary. At a

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[26] Notice at ¶ 90.
[27] 47 U.S.C. § 214(e)(5)(A).
[28] Notice at ¶ 96, n.184.
[29] Pub. L. No. 95-504, 92 Stat. 1705 (1978).
[30] Breyer, Stephen, "Airline Deregulation, Revisited," *Business Week* (Jan. 20, 2011), *available at:* https://www.bloomberg.com/news/articles/2011-01-20/airline-deregulation-revisitedbusinessweek-business-news-stock-market-and-financial-advice (visited Sept. 20, 2019).
[31] *See* U.S. Department of Transportation, "Aviation Policy" (discussing Essential Air Service and the Small Community Air Service Development Program, *available at:* https://www.transportation.gov/policy/aviation-policy/small-community-rural-air-service/essential-air-service.

minimum, that support should cover (1) any gap between the end of the CAF Phase II support term and the beginning of the RDOF;[32] (2) census blocks formerly supported by CAF Phase II that were not included in the RDOF auction; and (3) census blocks where a new ETC has won the RDOF support, but where it is not immediately able to provide voice and broadband service.

In such cases, it would disserve the public interest immediately to de-fund the price cap ILEC, leaving high-cost census blocks without the support necessary to ensure continued availability of affordable voice and broadband service. Even where a new provider will receive RDOF support, transition funding would serve the public interest: it is unlikely that a new provider will offer ubiquitous voice and broadband service meeting the RDOF requirements immediately following the close of the auction.

The need for such ongoing support is particular great in Alaska, where broadband deployment is complicated by a series of geographic, climatologic, and topographic challenges, as well as an extremely short construction season. Indeed, the Commission provided a ten-year term of CAF Phase II Frozen Support in Alaska in recognition of these challenges.[33] The Commission also adopted a ten-year term of support for its CAF Phase II auction, based on its assessment of the economic incentives necessary to stimulate investment in those price cap areas.[34] Furthermore, ongoing annual expenses to purchase exorbitant middle mile transport from third parties will continue to present daunting economic challenges for the foreseeable future.

Providing continuing support for the maintenance and upgrade of broadband services in areas formerly supported under CAF Phase II clearly is preferable to retrenchment of broadband availability. But, maintaining those services clearly will require continuing support, whether from the RDOF, or through a different transitional mechanism.

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[32] Notice at ¶ 101 (seeking comment on "whether to revisit the transition period from CAF Phase II model-based support to Rural Digital Opportunity Fund support").

[33] *See Alaska Communications CAF Phase II Order* at ¶ 24.

[34] Notice at ¶ 15.

Conclusion

For the foregoing reasons, Alaska Communications urges the Commission to design the transition from CAF Phase II model support to the RDOF in such a way that it does not impose unsupported high-cost voice and broadband service obligations on price cap LECs under Section 214 of the Communications Act, and provides sufficient transition support to price cap LECs to protect the availability of voice and broadband services in all areas supported by CAF Phase II model support today.

Respectfully submitted,

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